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EXAMINER

MANTWANG, JOSEPH R

ART UNIT PAPER NUMBER

2144

DATE MAILED: 04/14/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

SC

Office Action Summary

Application No.

09/746,637

Applicant(s)

CHILOYAN ET AL.

Examiner

Joseph R Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 8, 20, 21, 28, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "Class request" in claims 7 and 28 renders the claims indefinite. The term "Class request" is not defined by the claims, the specification does not provide information for ascertaining the definition of the term, and one of ordinary skill in the art would not be able to readily understand the specifics of such a term claimed by Applicant. Examiner interprets such a term as any general request to a peripheral device for the purposes of examination.

The term "Vendor Specific Device request" in claims 8 and 29 renders the claims indefinite. The term "Vendor Specific Device request" is not defined by the claims, the specification does not provide information for ascertaining the definition of the term, and one of ordinary skill in the art would not be able to readily understand the specifics of such a term claimed by Applicant. Examiner interprets such a term as any general request to a peripheral device for the purposes of examination.

Claim 8 recites the limitation "the step of reading". There is insufficient antecedent basis for this limitation in the claim.

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Claim 20 recites the limitation "the step of communicating". There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "further requests to execute a browser function on the hose device". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17, 19-22, 24-38, and 40-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al. (U.S. Pat. No. 6,668,376), hereinafter referred to as Wang.

Regarding claims 1, 24, and 25, Wang disclosed a method and system of accessing information related to a peripheral device as claimed. The method comprised obtaining an identifier from the peripheral device, determining a network address based on the identifier, and enabling communication between a host of the peripheral device and a remote server at the address (see column 2, lines 24-41; column 3, lines 24-40).

Regarding claims 2 and 3, Wang disclosed obtaining the peripheral identifier after the host recognized a change in the number of devices connected to the host or alternatively by a manual indication provided by the user (see column 4, lines 10-15).

Regarding claim 4, Wang disclosed employing at least one of the identifiers as at least a portion of the network address, as it was disclosed that an identifier received from the peripheral device could be the address itself (see column 5, lines 30-62).

Regarding claims 5-8 and 26-29, Wang disclosed obtaining peripheral identification through a request and receiving a device descriptor. A descriptor could be a string descriptor, and include several identifiers, including a class and a command set specific to the peripheral device (see column 4, lines 10-29, 40-60). Parsing the descriptor for at least one of the identifiers was inherently disclosed by Wang as these values were disclosed to be unique and network addresses were retrieved based on them (see column 4, line 61 through column 5, line 15). Parsing the descriptor in this case would be necessary to extract the unique information needed for retrieving network addresses.

Regarding claims 9-11 and 30-32, Wang disclosed determining a network address comprising accessing a database using a peripheral identifier as claimed. The database could reside on the host computer or externally, accessible to the host (see column 2, lines 42-49; column 3, line 61 through column 4, line 9; column 5, lines 17-22).

Regarding claims 12 and 33, the network address was generated based on the peripheral identifier as claimed (see column 4, lines 1-4; column 5, lines 1-3).

Regarding claims 13-17 and 34-38, Wang disclosed automatically retrieving and installing peripheral device drivers from the remote computer using the network address (see column 3, lines 24-40; column 5, lines 1-15).

Regarding claims 19 and 40, Wang implicitly disclosed creating links to network addresses by disclosing storage of the database of network addresses on a webpage (see column 5, lines 17-22). A webpage of network addresses implies links as claimed.

Regarding claims 20 and 41, Wang disclosed automatically executing a browser on the host to access the remote computer at the network address (see column 5, lines 3-9).

Regarding claims 21 and 42, Wang disclosed alternatively allowing a computer user to perform any of the disclosed actions in order to install a device driver, including accessing the network address (see column 3, lines 24-35). As the use of a browser was disclosed for accessing a network address (see column 5, lines 3-9), Wang thus disclosed allowing a computer user to use a browser for accessing a network address, enabling a user to execute a browser function as claimed.

Regarding claims 22 and 43, Wang disclosed the process for locating a device driver beginning with a query to the peripheral device. Wang disclosed such a query to be controlled by the computer user (see column 4, lines 10-15). As the process for accessing the network address was user controlled at the query step, Wang thus enabled a user to suppress automatically accessing a network address as claimed.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (U.S. Pat. No. 6,668,376), hereinafter referred to as Wang, as applied to claims 1 and 25 above, and further in view of Lin et al. (U.S. Pat. No. 6,523,083), hereinafter referred to as Lin.

Wang disclosed a method and system of accessing information related to a peripheral device. The method comprised obtaining an identifier from the peripheral device, determining a network address based on the identifier, and enabling communication between a host of the peripheral device and a remote server at the address (see column 2, lines 24-41; column 3, lines 24-40). Wang disclosed downloading peripheral device driver software from the network address.

While the invention of Wang related to downloading peripheral device driver software from a network address, Wang did not specifically disclose downloading firmware for a peripheral device.

In a related art of peripheral devices, Lin disclosed a system and method for updating the firmware of a peripheral device. A peripheral device was programmed entirely by a host device offering a more cost effective solution over prior art methods (see column 2, lines 13-59).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Wang and Lin to include firmware updates in addition to the device driver resources accessible through a network. One of ordinary skill in the art would have been motivated to consider updating firmware in a peripheral device as Lin disclosed it necessary in keeping a peripheral current and error free (see column 1, lines 16-22), a problem also recognized by Wang (see column 1, lines 32-54). Allowing for firmware updates in the invention of Wang as taught by Lin would have further provided a way for updating a peripheral device in an efficient manner.

Claims 23 and 44 rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (U.S. Pat. No. 6,668,376), hereinafter referred to as Wang, as applied to claims 1 and 25 above, and further in view of what was well known at the time of invention.

Wang disclosed a method and system of accessing information related to a peripheral device. The method comprised obtaining an identifier from the peripheral device, determining a network address based on the identifier, and enabling communication between a host of the peripheral device and a remote server at the address (see column 2, lines 24-41; column 3, lines 24-40). Wang disclosed determining a network address by accessing a database using a peripheral identifier. The database could reside on the host computer or externally, accessible to the host. Wang disclosed generating the database with the help of manufacturers to correlate network address and device identification data, the network addresses providing direct

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access to device driver software (see column 2, lines 42-49; column 3, line 61 through column 4, line 9; column 5, lines 17-22)

Examiner takes Official Notice (see MPEP § 2144.03) that periodically updating a database in a computer networking environment was well known in the art at the time the invention was made.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Wang to include periodically updating the database to add or change network addresses pertaining to peripheral devices as claimed. It was desired in the invention of Wang to provide up-to-date versions of software (see column 1, lines 44-67), thus motivating one of ordinary skill to not only update the driver software of peripheral devices as disclosed, but to further keep the driver software up-to-date at the source by periodically updating the database of addresses for accessing the software.

Conclusion

The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or

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the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Elg (U.S. Pat. No. 6,694,354) disclosed updating a peripheral device by downloading device drivers at a URL generated by a host based on information obtained from the peripheral device.

Rudd et al. (U.S. Pat. No. 6,178,468) disclosed a plug and play installation mechanism that obtained installation resources from a URL.

Cantwell (U.S. Pat. App. Pub. 2002/0147795) disclosed a network peripheral device driver installer using a browser to download list of drivers for the device.

Beyda (U.S. Pat. No. 5,870,610) disclosed an automatic device configuration system obtaining device software from a remote site.

Perlman et al. (U.S. Pat. No. 6,023,585) disclosed a method for installing device drivers by downloading drivers over a network.

Craig et al. (U.S. Pat. No. 6,266,809) disclosed a method and system for updating firmware in a computer over a network.


Stupek, Jr. et al. (U.S. Pat. No. 5,809,287) disclosed a method for upgrading computer resources.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R Maniwang whose telephone number is (703) 305-3179. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B Harvey can be reached on (703)305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER

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